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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,675	03/07/2001	Rebecca E. Cahoon	BB-1240	3886

7590 08/09/2002  
William R Majarian  
E I du Pont de Nemours & Company  
Legal Patents  
Wilmington, DE 19898

EXAMINER

NASHED, NASHAAT T

ART UNIT PAPER NUMBER

1652

DATE MAILED: 08/09/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

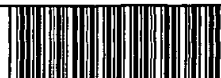
## Office Action Summary

Application No.  
**09/786,675**

Applicant(s)  
**Cahoon et al.**

Examiner  
**Nashaat T. Nashed**

Art Unit  
**1652**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Mar 7, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-31 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

Claims 1-31 are pending.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

- |            |   |
|------------|---|
| Group I    | Claims 1-23, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 2, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295.         |
| Group II   | Claims 1-22 and 24, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 4, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295.  |
| Group III  | Claims 1-22 and 25, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 6, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295.  |
| Group IV   | Claims 1-22 and 26, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 8, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295.  |
| Group V    | Claims 1-22 and 27 drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 10, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295.  |
| Group VI   | Claims 1-22 and 28, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 12, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295. |
| Group VII  | Claims 1-22 and 29, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 14, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295. |
| Group VIII | Claims 1-22 and 30, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 16, the polypeptide, victor, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295. |

Group IX      Claims 1-22 and 31, drawn to nucleic acid sequence encoding the polypeptide of SEQ ID: 18, the polypeptide, vector, host cell comprising said nucleic acid, transgenic plants and methods of making transgenic plants, classified in Class 800, subclass 295.

The inventions listed as Groups I-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature of the invention of Groups I-IX are the nucleic acid molecules of SEQ ID NO's: 1, 3, 5, 7, 9, 11, 13, 15, and 17, respectively. The nucleic acid sequences of SEQ ID NO's: 1, 3, 5, 7, 9, 11, 13, 15, and 17 are independent chemical entities. Thus, the inventions of Groups I-IX do not relate to a single technical feature.

A telephone call was made to Lorri Beardell on August 8, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.


Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Nashaat T. Nashed, Ph.D. whose telephone number is (703) 305-6586. The examiner can normally be reached Monday, Tuesday, Thursday and Friday from 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached on (703) 308-3804. The fax phone numbers for this Group are (703) 305-3014 and (703)308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

  
Nashaat T. Nashed, Ph. D.  
Primary Examiner